

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

WILIAM D. TURNER,

Plaintiff,

vs.

FILED ELECTRONICALLY

CIV. ACTION NO.

JOHN E. WETZEL, SECRETARY OF
CORRECTIONS; CORRECTION
CARE SOLUTION, CARL KELDIE,
JOSEP SILVA (DEPARTMENT OF
CORRECTIONS HEALTH CARE
SERVICE DIRECTOR), DR. PAUL
NOAL, DR. JAY COWAN, THE
DOC'S HEPATITIS C COMMITTEE,
SCI FRACKVILLE'S MA KUREN,
VISOR MS. KURAS, CHDA MS.
HOLLY and SHARON SELBI; RN any
and all individuals or entities
responsible for my HEALTH CARE
and/or DOC MEDICAL POLICIES,

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1331, §1441 and §1446, Petitioners, Carl Keldie and Dr. Jay Cowan, petition this Court to remove this action from the Court of Common Pleas of Schuylkill County, Pennsylvania, to the United States District Court for the Middle District of Pennsylvania and in support thereof aver as follows:

State Court Action

1. This action for removal is currently before the Court of Common Pleas of Schuylkill County, Pennsylvania, styled as William D. Turner v. John E. Wetzel, et al., Case No. S-89-18

2. Plaintiff initiated the instant civil rights lawsuit *pro se* on January 19, 2018 with the filing of his Complaint.

Parties

3. Plaintiff in this case is William D. Turner, an inmate currently incarcerated within the Pennsylvania Department of Corrections at State Correctional Institution at Frackville (“S.C.I.-Frackville”) under inmate number AM-5992.

4. Defendants, Carl Keldie and Dr. Jay Cowan, are alleged to have been involved in and/or responsible for healthcare services provided to inmates incarcerated at S.C.I.-Rockview. Defendants have not been properly served with the Complaint, however the undersigned Counsel intends to accept the Complaint on Defendants’ behalf. Defendants first became aware of the Complaint on or about February 9, 2018.

5. Plaintiff's Complaint, filed in the Court of Common Pleas of Schuylkill County, Pennsylvania, on January 19, 2018 is attached hereto as Exhibit "A".

6. Plaintiff asserts that the instant matter is a civil rights action pursuant to 42 U.S.C. § 1983 for violations of his rights under the Eighth Amendments to the United States Constitution. (See Plaintiff's Complaint, ¶ 21, 22)

7. Plaintiff's lawsuit asserts deliberate indifference relating to the alleged refusal of treatment for Hepatitis-C and symptoms allegedly arising therefrom.

8. This Court has original jurisdiction of this matter under federal question jurisdiction, pursuant to 28 U.S.C. §§ 1331, because Plaintiff's claims arise under the Constitution and laws of the United States. See 28 U.S.C. §1331.

9. As such, pursuant to 28 U.S.C. § 1441(a), the instant action is removable to this Court on the basis of federal question jurisdiction, because "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." See 28 U.S.C. § 1441(a).

10. This Notice of Removal is timely filed with this Court.

11. In accordance with 28 U.S.C. §1446(a), all of the process and substantive pleadings filed in the action to date, along with a copy of the Civil Docket Sheet, are collectively attached to this notice as Exhibit “B”.

12. As required by 28 U.S.C. §1446(d), Defendants have filed a true and correct copy of this Notice of Removal with the Clerk of the Court of Common Pleas of Schuylkill County, Pennsylvania. (A copy of the Notice of Filing the Notice of Removal is attached hereto as Exhibit “C”).

13. This Notice of Removal is being filed in the United States District for the Middle District of Pennsylvania, the District Court of the United States within which the state court action is pending, as required by 28 U.S.C. §§1441(a) and 1446(a).

14. Accordingly, Defendants have satisfied all procedural requirements governing removal pursuant to 28 U.S.C. §§ 1441 and 1446, the Federal Rules of Civil Procedure, and the Local Rules of this Court.

15. By filing this Notice of Removal, Defendants Keldie and Cowan do not waive any defenses which may be available to them.

Respectfully submitted,

WEBER GALLAGHER SIMPSON STAPLETON
FIRES & NEWBY LLP

BY: /s/ Samuel H. Foreman
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CERTIFICATE OF SERVICE

I, Samuel H. Foreman, Esquire, hereby certify that on this date a true and correct copy of the foregoing **NOTICE OF REMOVAL** was sent by first class United States mail, postage prepaid, to the following:

William D. Turner, AM5992
SCI-Frackville
1111 Altamont Blvd
Frackville, PA 17932

Daniel J. Gallagher
Deputy Attorney General
Office of the Attorney General
Civil Litigation Section
15th Fl., Strawberry Square
Harrisburg, PA 17120

/S/ Samuel H. Foreman
Samuel H. Foreman, Esquire

Dated: 02/13/2018